

FIRST REGULAR SESSION
[CORRECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 74 & 49
93RD GENERAL ASSEMBLY

Reported from the Committee on Health Care Policy April 27, 2005 with recommendation that House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 74 & 49 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0224L.08C

AN ACT

To repeal sections 191.332, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, and 701.049, RSMo, and to enact in lieu thereof thirteen new sections relating to the department of health and senior services, with an emergency clause for certain sections.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 191.332, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, and 701.049, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 191.235, 191.332, 191.645, 192.324, 192.326, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, and 701.049, to read as follows:

191.235. 1. Beginning April 1, 2007, immunizations administered in the state of Missouri to knowingly pregnant women or children less than three years of age shall not contain more than one microgram of mercury per five-tenths-milliliter dose.

2. Beginning April 1, 2007, any health carrier as defined in section 376.1350, RSMo, doing business in the state of Missouri that provides insurance coverage for

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

immunizations on a fee schedule or on a percentage reimbursement basis shall reimburse for immunizations not containing mercury at the same percentage rate of the usual and customary charges which were provided for immunizations containing mercury or other preservatives immediately prior to April 1, 2007.

3. The director of the department of health and senior services shall exempt the use of a vaccine from compliance with this section if the director finds, and the governor concurs, that an actual or potential public health emergency exists, including an epidemic, outbreak, or shortage for which there does not exist a sufficient supply of vaccine that complies with subsection 1 of this section that would prevent knowingly pregnant women or children less than three year of age from receiving the vaccine. The director shall determine the duration of such exemption.

191.332. 1. By January 1, 2002, the department of health and senior services shall, subject to appropriations, expand the newborn screening requirements in section 191.331 to include potentially treatable or manageable disorders, [including] **which may include but are not limited to** cystic fibrosis, galactosemia, biotinidase deficiency, congenital adrenal hyperplasia, maple syrup urine disease (MSUD) and other amino acid disorders, glucose-6-phosphate [dehydrogenase] **dehydrogenase** deficiency (G-6-PD), MCAD and other fatty acid oxidation disorders, methylmalonic acidemia, propionic acidemia, isovaleric acidemia and glutaric acidemia Type I.

2. The department of health and senior services may promulgate rules to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

191.645. 1. Healthcare employers shall make information available to their employees regarding the risk of exposure to hepatitis C. Such information shall include but not be limited to the following: availability of testing, including lists of several sites where testing can be obtained; cost; the department of health and senior services web site; protocol for accidental exposure; and any other information deemed pertinent by the employer.

2. The department of health and senior services shall maintain a "Missouri Hepatitis C" web site in conjunction with the department's current web site that:

(1) Informs Missourians of the availability testing for the detection of hepatitis C;

(2) Contains detailed information regarding hepatitis including, but not limited to, the following:

(a) Facts about hepatitis C;

(b) Risk factors for the contraction of hepatitis C;

(c) Common routes of transmission for hepatitis C;

- (d) Effects of hepatitis C on the liver and other organs;
- (e) Current treatments for acute and chronic hepatitis C;
- (f) Effects of untreated hepatitis C on the liver and other organs;
- (3) Contains links to the following information and instructional web sites:
 - (a) The American Liver Foundation (www.liverfoundation.org);
 - (b) Hepatitis Foundation International (www.hepatitisfoundation.org);
 - (c) Centers for Disease Control and Prevention (www.cdc.gov/ncidod/diseases/hepatitis/resource/);
- (d) Links to any other web site or sites the director deems appropriate and informative for Missourians; and
- (e) Information on hepatitis C support groups in Missouri, including but not limited to meeting times, locations, and dates.

192.324. There is hereby created in the state treasury the "Department of Health and Senior Services Administrative and Cost Allocation Fund". The state treasurer shall be the custodian of the fund and the fund shall be administered by the director of the department of health and senior services. The fund shall be funded annually by appropriations, and deposits and transfers thereto. The fund shall contain moneys transferred or paid to the department in return for goods and services provided internally by the department, or to any governmental entity or the public. The commissioner of administration shall approve disbursements from the fund at the request of the director of the department or the director's designee in accordance with the appropriations made therefore. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund shall not lapse to the credit of general revenue at the end of the biennium. All interest earned on the fund shall be deposited in and credited to the fund.

192.326. There is hereby created in the state treasury the "Department of Health and Senior Services Disaster Fund", to which the general assembly may appropriate moneys and from which moneys may be appropriated annually to the department of health and senior services. Moneys in the fund shall be expended during a state of emergency at the direction of the governor and upon issuance of an emergency declaration which shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The state treasurer shall be the custodian of the fund and the fund shall be administered by the department of health and senior services. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund shall not lapse to the credit of general revenue at the end of the biennium. All interest earned on the fund shall be deposited in and credited to the fund.

192.900. The "Missouri Public Health Services Fund" is hereby created. All moneys deposited in the Missouri public health services fund, subject to appropriation,

shall be used for public health purposes, including the contracting for the accomplishment of such purposes by local health departments. **Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund shall not lapse to the credit of general revenue at the end of the biennium. Any interest earned on the fund shall accrue to the fund.**

193.015. As used in sections 193.005 to 193.325, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Dead body", a human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred;

(2) "Department", the department of health and senior services;

(3) "Final disposition", the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus;

(4) "Institution", any establishment, public or private, which provides inpatient **or outpatient** medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary care, or to which persons are committed by law;

(5) "Live birth", the complete expulsion or extraction from its mother of a child, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(6) "Physician", a person authorized or licensed to practice medicine or osteopathy pursuant to chapter 334, RSMo;

(7) "Spontaneous fetal death", a noninduced death prior to the complete expulsion or extraction from its mother of a fetus, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles;

(8) "State registrar", state registrar of vital statistics of the state of Missouri;

(9) "System of vital statistics", the registration, collection, preservation, amendment and certification of vital records; the collection of other reports required by sections 193.005 to 193.325 and section 194.060, RSMo; and activities related thereto including the tabulation, analysis and publication of vital statistics;

(10) "Vital records", certificates or reports of birth, death, marriage, dissolution of marriage and data related thereto;

(11) "Vital statistics", the data derived from certificates and reports of birth, death, spontaneous fetal death, marriage, dissolution of marriage and related reports.

193.085. 1. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within [seven] **five** days after such birth and shall be registered if such certificate has

been completed and filed pursuant to the provisions of this section.

2. When a birth occurs in an institution or en route to an institution, the person in charge of the institution or such person's designated representative shall obtain the personal data, prepare the certificate, [secure the signatures required] **certify that the child was born alive at the place and time and on the date stated either by signature or an electronic process approved by the department**, and file the certificate pursuant to this section or as otherwise directed by the state registrar within the required [seven] **five** days. The physician or other person in attendance shall provide the medical information required by the certificate and certify to the facts of birth within five days after the birth. If the physician or other person in attendance does not certify to the facts of birth within the five-day period, the person in charge of the institution shall complete [and sign] the certificate.

3. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

- (1) The physician in attendance at or immediately after the birth;
- (2) Any other person in attendance at or immediately after the birth;
- (3) The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

4. When a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in this state, the birth shall be registered in this state and such place shall be considered the place of birth. When a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in this state, the birth shall be registered in this state but the certificate shall show the actual place of birth insofar as can be determined.

5. If the mother was married at the time of either conception or birth, or between conception and birth, the name of the husband shall be entered on the certificate as the father of the child, unless:

- (1) Paternity has been determined otherwise by a court of competent jurisdiction;
- or

- (2) The mother executes an affidavit attesting that the husband is not the father and the putative father is the father, and the putative father executes an affidavit attesting that he is the father, and the husband executes an affidavit attesting that he is not the father. If such affidavits are executed, the putative father shall be shown as the father on the birth certificate and the signed acknowledgment of paternity shall be considered a legal finding of paternity. The affidavits shall be as provided for in section 193.215.

6. In any case in which paternity of a child is determined by a court of competent jurisdiction, the name of the father and surname of the child shall be entered on the

certificate of birth pursuant to the finding and order of the court.

7. Notwithstanding any other law to the contrary, if a child is born to unmarried parents, the name of the father and other required information shall be entered on the certificate of birth only if an acknowledgment of paternity pursuant to section 193.215 is completed, or if paternity is determined by a court of competent jurisdiction or by an administrative order of the **family support** division [of child support enforcement].

8. If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate.

9. The birth certificate of a child born to a married woman as a result of artificial insemination, with consent of her husband, shall be completed pursuant to the provisions of subsection 5 of this section.

10. Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within the required [seven] **five** days.

193.087. 1. In addition to the requirements of subsection 2 of section 193.085, when a birth occurs to an unmarried mother, whether in an institution or en route to an institution, the person in charge of the institution or a designated representative shall:

(1) Provide a form or affidavit prescribed by the state registrar that may be completed by the child's mother and father to voluntarily acknowledge paternity of the child pursuant to section 193.215;

(2) File the form, when completed, along with the certificate required by this section; and

(3) Provide oral and written notice to the affiant required by section 193.215.

2. Any institution, the person in charge or a designated representative shall be immune from civil or criminal liability for providing the form or affidavit required by subsection 1 of this section, the information developed pursuant to that subsection, or otherwise fulfilling the duties required by subsection 1 of this section.

3. The **family support** division [of child support enforcement] may contract with the department of health and senior services to provide assistance and training to the hospital staff assigned responsibility for providing the information, as appropriate, to carry out duties pursuant to this section. The **family support** division [of child support enforcement] shall develop and distribute free of charge the information on the rights and responsibilities of parents that is required to be distributed pursuant to this section. The department of health and senior services shall provide free of charge to hospitals the acknowledgment of paternity affidavit, and instructions on the completion of the affidavit.

4. If no contract is developed with the department of health and senior services, then the **family support** division [of child support enforcement] shall provide the assistance and training activities to hospitals pursuant to subsection 3 of this section.

5. Any affiant who intentionally misidentifies another person as a parent may be prosecuted for perjury, pursuant to section 575.040, RSMo.

6. Due to lack of cooperation by public assistance recipients, the **family support** division shall either suspend the entire public assistance cash grant, or remove the needs of the adult recipient of public assistance from the cash grant, subject to good cause exceptions pursuant to federal law or regulations.

193.115. 1. If a delayed certificate of birth is rejected under the provisions of section 193.105, a petition signed and sworn to by the petitioner may be filed with a court of competent jurisdiction for an order establishing a record of the date and place of the birth and the parentage of the person whose birth is to be registered.

2. Such petition shall be made on a form prescribed [and furnished] **or approved** by the state registrar and shall allege:

(1) That the person for whom a delayed certificate of birth is sought was born in this state;

(2) That no certificate of birth of such person can be found in the department or the office of any local custodian of birth certificates;

(3) That diligent efforts by the petitioner have failed to obtain the evidence required in accordance with section 193.105, and regulations adopted pursuant thereto;

(4) That the state registrar has refused to register a delayed certificate of birth;

(5) Such other allegations as may be required.

3. The petition shall be accompanied by a statement of the state registrar made in accordance with section 193.105 and all documentary evidence which was submitted to the state registrar in support of such registration.

4. The court shall fix a time and place for hearing the petition and shall give the state registrar thirty days' notice of said hearing. The state registrar or his authorized representative may appear and testify in the proceeding.

5. If the court finds, from the evidence presented, that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and such other findings as may be required and shall issue an order, on a form prescribed [and furnished] **or approved** by the state registrar, to establish a certificate of birth. This order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

6. The clerk of the court shall forward each such order to the state registrar not later than the tenth day of the calendar month following the month in which it was entered. Such order shall be registered by the state registrar and shall constitute the certificate of birth.

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state, the court shall require the preparation of a certificate of decree of adoption on a form as prescribed [and furnished] **or approved** by the state registrar. The certificate

of decree of adoption shall include such facts as are necessary to locate and identify the certificate of birth of the person adopted, and shall provide information necessary to establish a new certificate of birth of the person adopted and shall identify the court and county of the adoption and be certified by the clerk of the court. The state registrar shall file the original certificate of birth with the certificate of decree of adoption and such file may be opened by the state registrar only upon receipt of a certified copy of an order as decreed by the court of adoption.

2. Information necessary to prepare the report of adoption shall be furnished by each petitioner for adoption or the petitioner's attorney. The social welfare agency or any person having knowledge of the facts shall supply the court with such additional information as may be necessary to complete the report. The provision of such information shall be prerequisite to the issuance of a final decree in the matter by the court.

3. Whenever an adoption decree is amended or annulled, the clerk of the court shall prepare a report thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.

4. Not later than the fifteenth day of each calendar month or more frequently as directed by the state registrar the clerk of the court shall forward to the state registrar reports of decrees of adoption, annulment of adoption and amendments of decrees of adoption which were entered in the preceding month, together with such related reports as the state registrar shall require.

5. When the state registrar shall receive a report of adoption, annulment of adoption, or amendment of a decree of adoption for a person born outside this state, he or she shall forward such report to the state registrar in the state of birth.

6. In a case of adoption in this state of a person not born in any state, territory or possession of the United States or country not covered by interchange agreements, the state registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in the name of the adopted person, as decreed by the court. The state registrar shall file the certificate of the decree of adoption, and such documents may be opened by the state registrar only by an order of court. The birth certificate prepared under this subsection shall have the same legal weight as evidence as a delayed or altered birth certificate as provided in section 193.235.

7. The department, upon receipt of proof that a person has been adopted by a Missouri resident pursuant to laws of countries other than the United States, shall prepare a birth certificate in the name of the adopted person as decreed by the court of such country. If such proof contains the surname of either adoptive parent, the department of health and senior services shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of the name of the adopted person shall be made by a

court of competent jurisdiction. The proof of adoption required by the department shall include a copy of the original birth certificate and adoption decree, an English translation of such birth certificate and adoption decree, and a copy of the approval of the immigration of the adopted person by the Immigration and Naturalization Service of the United States government which shows the child lawfully entered the United States. The authenticity of the translation of the birth certificate and adoption decree required by this subsection shall be sworn to by the translator in a notarized document. The state registrar shall file such documents received by the department relating to such adoption and such documents may be opened by the state registrar only by an order of a court. A birth certificate pursuant to this subsection shall be issued upon request of one of the adoptive parents of such adopted person or upon request of the adopted person if of legal age. The birth certificate prepared pursuant to the provisions of this subsection shall have the same legal weight as evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

8. If no certificate of birth is on file for the person under twelve years of age who has been adopted, a belated certificate of birth shall be filed with the state registrar as provided in sections 193.005 to 193.325 before a new birth record is to be established as result of adoption. A new certificate is to be established on the basis of the adoption under this section and shall be prepared on a [standard] certificate of live birth form.

9. If no certificate of birth has been filed for a person twelve years of age or older who has been adopted, a new birth certificate is to be established under this section upon receipt of proof of adoption as required by the department. A new certificate shall be prepared in the name of the adopted person as decreed by the court, registering adopted parents' names. The new certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed in a sealed file and shall not be subject to inspection except upon an order of the court.

193.145. 1. A certificate of death for each death which occurs in this state shall be filed with the local registrar, or as otherwise directed by the state registrar, within five days after death and shall be registered if such certificate has been completed and filed pursuant to this section.

2. If the place of death is unknown but the dead body is found in this state, the certificate of death shall be completed and filed pursuant to the provisions of this section. The place where the body is found shall be shown as the place of death. The date of death shall be the date on which the remains were found.

3. When death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance

in this state, the death shall be registered in this state but the certificate shall show the actual place of death if such place may be determined.

4. The funeral director or person [acting as such] in charge of final disposition of the dead body shall file the certificate of death. The funeral director **or person in charge of the final disposition of the dead body** shall obtain **or verify**:

(1) The personal data from the next of kin or the best qualified person or source available; and

(2) The medical certification from the person responsible for such certification.

5. The medical certification shall be completed, [signed] **attested to its accuracy either by signature or an electronic process approved by the department**, and returned to the funeral director or person [acting as such] **in charge of final disposition** within seventy-two hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death. In the absence of the physician or with the physician's approval the certificate may be completed and [signed] **attested to its accuracy either by signature or an approved electronic process** by the physician's associate physician, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided such individual has access to the medical history of the case, views the deceased at or after death and death is due to natural causes. **The state registrar may approve alternate methods of obtaining and processing the medical certification and filing the death certificate.** The Social Security number of any individual who has died shall be placed in the records relating to the death and recorded on the death certificate.

6. When death occurs from natural causes more than thirty-six hours after the decedent was last treated by a physician, the case shall be referred to the county medical examiner or coroner or physician or local registrar for investigation to determine and certify the cause of death. If the death is determined to be of a natural cause, the medical examiner or coroner or local registrar shall refer the certificate of death to the attending physician for such physician's certification. If the attending physician refuses or is otherwise unavailable, the medical examiner or coroner or local registrar shall [sign] **attest to the accuracy of the certificate of death either by signature or an approved electronic process** within thirty-six hours.

7. If the circumstances suggest that the death was caused by other than natural causes, the medical examiner or coroner shall determine the cause of death and shall complete and [sign] **attest to the accuracy either by signature or an approved electronic process** the medical certification within seventy-two hours after taking charge of the case.

8. If the cause of death cannot be determined within seventy-two hours after death, the attending medical examiner or coroner or attending physician or local registrar

shall give the funeral director, or person [acting as such] **in charge of final disposition of the dead body**, notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the medical examiner or coroner, attending physician or local registrar.

9. When a death is presumed to have occurred within this state but the body cannot be located, a death certificate may be prepared by the state registrar upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required to complete the death certificate. Such a death certificate shall be marked "Presumptive", show on its face the date of registration, and identify the court and the date of decree.

701.049. 1. All moneys collected by the department pursuant to sections 701.025 to 701.059, except any administrative penalties, shall be deposited in the state treasury to be credited to the Missouri public health services fund, which is created in section 192.900, RSMo, and used for the specific purposes authorized in sections 701.025 to 701.059, except as provided in subsection 2 of this section, including contracting with county governments and local health departments to accomplish the purposes of sections 701.025 to 701.059. [Section 33.080, RSMo, notwithstanding, any balance in the fund exceeding five hundred thousand dollars shall revert to general revenue. All interest earned on the fund shall accrue to the fund.]

2. The director may, upon appropriations from the general assembly, use money from the Missouri public health services fund for development of innovative sewage systems and pilot programs.

Section B. Because immediate action is necessary to preserve funding for public health funds administered by the department of health and senior services, the enactment of sections 192.324 and 192.326 and the repeal and reenactment of sections 192.900 and 701.049 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 192.324 and 192.326 and the repeal and reenactment of sections 192.900 and 701.049 of section A of this act shall be in full force and effect on July 1, 2005, or upon its passage and approval, whichever later occurs.